

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 364 of 1999

in

CRIMINAL MISC.APPLICATION No 3919 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

HARKISHAN BALCHAND JAYSINGHANI

Versus

STATE OF GUJARAT

Appearance:

MR EE SAIYED for Petitioner

MR. TRIVEDI, APP for Respondent No. 1

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 12/07/1999

ORAL JUDGEMENT

1. Heard Mr. Saiyed for the revisioner and Mr. Trivedi for the respondents. Rule. Mr. Trivedi waives service of Rule on behalf of the respondents.

2. Mr. Saiyed has taken this Court through a detailed order passed by the learned Magistrate along with the F.I.R. It transpires from the order as well as copy of the certificate produced at Annexure-C that the muddamal in question, namely, Gur, was tested by the Executive Magistrate, Baroda, as required by circular of the State Government and was found to be edible. The Panchnama does not speak of the muddamal being stinking or having become loose in a semi-liquid form nor does it speak of it being rotten.

3. In this light of the facts, last time, it was suggested to the learned Additional Public Prosecutor that for obtaining report of the F.S.L. regarding quality of the goods in question and he states that, despite instructions to the Investigating Officer, the Investigating Officer has not come today nor has he procured and sent the F.S.L. report.

4. In light of the above, considering that this is monsoon season and the quantity of the goods in question is sizeable and further considering that prima facie there is no dispute about the title nor do the goods appear to be rotten jaggery as envisaged under Section 2(39) of the Bombay Prohibition Act, the muddamal in question deserves to be handed over to the revisioner.

5. However, since the F.S.L. report is not received, it would not be out of place if some conditions are imposed to secure the overall well-being of the society by preventing the use of the muddamal for some time.

6. Under the circumstances, the revision is allowed. The impugned order is set aside and the muddamal in question is ordered to be handed over to the revisioner on his executing a bond to the effect that the revisioner shall preserve the muddamal in the same condition for a period of at least eight weeks from today. In the meanwhile, if the F.S.L. report is received to indicate that the muddamal in question is not edible or is jaggery not fit for human consumption, the muddamal shall be surrendered by the revisioner to the Investigating Authorities forthwith on being asked to do so on the investigating agency obtaining appropriate orders from the Court concerned. After a period of two months, the revisioner shall execute a bond for Rs.50,000/-. Rule is made absolute accordingly.

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